

1 Jeffery A. Garofalo (Bar No. 7345)
2 E-mail: jeff.garogalo@procopio.com
3 PROCOPIO, CORY, HARGREAVES &
4 SAVITCH LLP
5 10000 W. Charleston Blvd., Suite 140
6 Las Vegas, NV 89135
7 Telephone: 702.216.2684
8 Facsimile: 619.788.5500
9
10 Lisel M. Ferguson (Bar No. 207637/Pro Hac Vice)
11 E-mail: lisel.ferguson@procopio.com
12 Tiffany Salayer (Bar No. 226189/Pro Hac Vice)
13 E-mail: tiffany.salayer@procopio.com
14 PROCOPIO, CORY, HARGREAVES &
15 SAVITCH LLP
16 525 B Street, Suite 2200
17 San Diego, CA 92101
18 Telephone: 619.238.1900
19 Facsimile: 619.235.0398

20
21 Attorneys for Plaintiff and Counter-Defendant
22 UPMANN SANCHEZ TURF AND LANDSCAPE

23 **UNITED STATES DISTRICT COURT**

24 **DISTRICT OF NEVADA**

25 UPMANN SANCHEZ TURF AND
1 LANDSCAPE, dba US Turf,

2 Plaintiff,

3 v.

4 US TURF LLC, dba Serenity Landscaping,

5 Defendant.

6

US TURF LLC,

7 Counterclaimant,

8 v.

9 UPMANN SANCHEZ TURF AND
10 LANDSCAPE, INC.

11 Counter-Defendant.

12 Case No. 2:21-cv-01749-JCM-DJA

13 **STIPULATION AND ORDER FOR
14 EXTENSION OF DISCOVERY
15 DEADLINES**

16 **(THIRD REQUEST)**

1 Plaintiff/Counter-Defendant UPMANN SANCHEZ TURF AND LANDSCAPE, INC.,
 2 ("Plaintiff") and Defendant/Counterclaimant US TURF, LLC ("Defendant"), by and through their
 3 counsel of record, hereby respectfully submit this Stipulation and Order for Extension of
 4 Discovery Deadlines in this case. This is the third request to extend discovery deadlines in this
 5 matter and seeks a forty-five (45) day extension of time for the close of discovery and a thirty (30)
 6 day extension for the deadline to submit a rebuttal expert report.

7 **FACTUAL BACKGROUND**

8 Plaintiff filed the Complaint in this case on September 22, 2021 (ECF No. 1) and
 9 Defendants filed their Answer and Counterclaims on November 2, 2021 (ECF No. 11). Plaintiff
 10 filed a Motion to Dismiss or Strike Defendant's Counterclaims on December 7, 2021 (ECF No.
 11 15). Defendant filed its Opposition to Plaintiff's Motion on January 7, 2022 (ECF No. 20) and
 12 Plaintiff's filed its Reply on January 13, 2022 (ECF No. 21).

13 On December 10, 2021, the Court entered a Discovery Plan and Scheduling Order (ECF
 14 No. 18), which set the close of discovery on May 2, 2022. On February 22, 2022 the Parties filed
 15 the first Stipulation for Extension of Time which the Court granted on February 23, 2022. (ECF
 16 No. 22-23). On June 7, 2022, the Parties filed its second Stipulation for Extension of Time which
 17 the Court granted on June 8, 2022. (ECF No. 27-28.) The close of discovery is currently October
 18 31, 2022.

19 **COMPLETED DISCOVERY**

20 The parties made the required initial disclosures under Rule 26 on December 22, 2021.
 21 On December 24, 2021, Defendant served its first set of discovery requests on Plaintiff to which
 22 Plaintiff, after requesting a three-week extension of time, served responses on February 14, 2022.
 23 On February 15, 2022, Plaintiff served its first set of discovery requests on Defendant. Defendant
 24 was granted a one-week extension of time and responded on March 24, 2022. The Parties met
 25 and conferred regarding 30(b)(6) depositions on May 11, 2022. Plaintiff took the depositions of
 26 two of Defendant's principals on June 1, 2022. On June 2, 2022, Defendant designated an expert
 27 and produced the expert's report. Defendant took the deposition of Plaintiff's 30(b)(6) on June
 28

1 23, 2022, took the deposition of Celeste Interrante on July 21, 2022, and Casey Arent on August
2 5, 2022.

3 **REMAINING DISCOVERY**

4 While the Parties are in the meet and confer process regarding written discovery responses
5 and supplemental productions, the parties still have depositions to complete and expert discovery.
6 Plaintiff requires additional time to obtain a rebuttal report from an expert prior to the current
7 rebuttal expert deadline of September 30, 2022. Defendant is scheduled to take the deposition of
8 another one of Plaintiff's employees on October 11, 2022. Plaintiff plans to take the deposition
9 of Defendant's 30(b)(6) witness in October 2022 and has met and conferred regarding the topics
10 of same. Both parties are likely to depose the named experts and any rebuttal experts.

11 **GOOD CAUSE TO EXTEND DISCOVERY**

12 The parties have been diligent in conducting discovery in this matter so far and remain
13 diligent in doing so. Both Parties have experienced slight initial delays due to the holidays at the
14 end of 2021 and/or COVID-19. However, the Parties have been diligent in seeking and
15 responding to discovery and resolving any disputes that arose in regards to discovery. In June
16 2022, the Parties requested and this Court granted an extension of discovery deadlines due to
17 Plaintiff requiring additional time to prepare a rebuttal report to Defendant's expert report.
18 Plaintiff retained a rebuttal expert and anticipated receiving a report sufficiently before the current
19 rebuttal deadline of September 30, 2022. Unfortunately, the expert Plaintiff originally retained
20 has been unable to complete the assignment and is unavailable for the foreseeable future due to
21 health issues. This event was unforeseeable and has necessitated Plaintiff to locate and retain a
22 new expert. Plaintiff recently retained a new expert who has indicated he needs additional time
23 to prepare a rebuttal report. For these reasons, this Stipulation is made for good cause and not for
24 purposes of delay.

25 The parties also agreed to a 45-day extension of the discovery cutoff date in order to
26 provide the parties with sufficient time to depose experts following Plaintiff's rebuttal expert
27 disclosure and to avoid dispositive motions being due during the holidays. The Parties hereby
28

stipulate and agree to the following deadline dates for the remaining discovery deadlines in this case:

- **Discovery Cutoff Date: December 14, 2022**
- **Rebuttal Expert Disclosures: October 31, 2022**
- **Dispositive Motions: January 13, 2023**
- **Pretrial Order: February 13, 2023.** This deadline will be suspended if dispositive motions are timely filed until 30 days after the decision of the dispositive motions or until further order of the Court.

DATED: September 23, 2022

IT IS SO AGREED AND STIPULATED:

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP

GILE LAW GROUP LTD.

/s/Tiffany Salayer
Lisel M. Ferguson (Pro Hac Vice)
E-mail: lisel.ferguson@procopio.com
Tiffany Salayer (Pro Hac Vice)
E-mail: tiffany.salayer@procopio.com
525 B Street, Suite 2200
San Diego, CA 92101
Telephone: 619.238.1900

/s/ Ryan Gile
Ryan Gile, Esq.
Nevada Bar No. 8807
rg@gilelawgroup.com
1180 N. Town Center Drive, Suite 100
Las Vegas, Nevada 89144
Tel. (702) 703-7288

Jeffery A. Garofalo (Bar No. 7345)
E-mail: jeff.garogalo@procopio.com
10000 W. Charleston Blvd., Suite 140
Las Vegas, NV 89135
Telephone: 702.216.2684

*Attorneys for
Defendant/Counterclaimant US TURF LLC*

*Attorneys for Plaintiff/Counter-Defendant
Upmann Sanchez Turf and Landscape*

IT IS SO ORDERED:

UNITED STATES MAGISTRATE JUDGE

Dated: September 27, 2022

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I further certify that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF to all participants in the case who are registered CM/ECF users.

/s/Tiffany Salayer